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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/618,518	07/11/2003	Edward J. Mueller	31660-1001	6589

5179 7590 11/29/2005

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EXAMINER

SILBERMANN, JOANNE

ART UNIT PAPER NUMBER

3611

DATE MAILED: 11/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/618,518	MUELLER, EDWARD J.	
	Examiner	Art Unit	
	Joanne Silbermann	3611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 September 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 26-32 and 34-89 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 26-32, 34-89 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 26-30, 32, 38, 41, 63-66, 71, 74 and 89 are rejected under 35

U.S.C. 102(b) as being anticipated by Chang, US #6,192,824.

3. Chang discloses a lighted pole and banner assembly comprising a support comprising hollow transparent cylinder 2 having no openings in its lateral surface, banner 11 attached to the lateral surface of the cylinder, light source (bulb) 31 disposed within the support between the two ends and illuminating an entire circumference of at least a portion of support 2 so that illumination of the portion is visible around the support and the banner is illuminated.

4. The light source extends uninterrupted along the length of the support (Figure 1).

5. The display is mounted to a surface (column 2 lines 53-55).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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7. Claims 34-37, 39, 40, 42-58, 60, 67-70, 72, 73, and 75-88 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chang.

8. Chang does not teach the support as being a plurality of sections. It would have been obvious to a person having ordinary skill in the art at the time the invention was made to make the support from several pieces, since it has been held that constructing a formerly integral structure in various elements involves only routine skill in the art. *Nerwin v. Erlichman*, 168 USPQ 177, 179.

9. Chang does not teach using LEDs, rope lights, neon, fluorescent lights, or fiber optics. These light sources are all old and well known in the art. It would have been obvious to one of ordinary skill to utilize a different light source as an alternative equivalent. It also would have been obvious to utilize a different light source so as to use less electricity and require less frequent changing of lights.

10. Chang does not teach different colors, however the particular color of the lights is considered to be entirely a matter of design choice. Matters relating to ornamentation only, and having no mechanical function, cannot be relied on where claims are not directed to design but are structural claims. In re SEID, 73 USPQ 431 (CCPA 1947). It would have been obvious to a person having ordinary skill in the art to utilize any known color for the lights so as to provide the desired type of display.

11. Chang does not teach varying brightness, blinking lights, or sequential lighting, however these are common. Dimmer switches are well known in the art of illumination and blinking and sequential lighting are commonly used. It would have been obvious to utilize a dimmer function for the light sources so that the appropriate amount of

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illumination may be employed. It also would have been obvious to utilize blinking or sequential lighting to attract attention to the display.

12. Chang does not specifically teach using polymeric material or acrylic, however these materials are well known in the art. It would have been obvious to one of ordinary skill in the art to utilize these materials since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice.

13. Chang does not specifically teach mounting the assembly on a vehicle, however this is old and well known in the art. Illuminated displays mounted to the tops of vehicles are common, especially among delivery services. It would have been obvious to mount the assembly of Chang atop a vehicle so that the display may be more easily seen.

14. Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chang in view of Taylor, US #2,509,707.

15. Chang does not teach using a luminescent support, however this is well known in the art. Taylor teaches a hollow, luminescent support having illumination disposed within the support (Figures 1 and 2). It would have been obvious to one of ordinary skill in the art to utilize a luminescent support so as to provide a different looking display, and to provide a support that glows after the light is turned off.

16. Claims 59, 61 and 62 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chang in view of Siew, US #4,833,443.

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17. Chang does not teach a holder having arms, however such a holder/bracket is well known in the art. Siew teaches a bracket for mounting an illuminated display including electrical cord 15 accommodated by bracket 7 having space 11 between tow arms (Figure 1). It would have been obvious to one of ordinary skill to utilize such a bracket so that the display may be mounted over a window or other thin object (as shown by Siew).

Response to Arguments

18. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

19. In response to Applicant's amendments to the claims (particular to claims 26 and 63) a new reference has been applied. Chang teaches a display including transparent support 2 wherein the entire circumference is transparent.

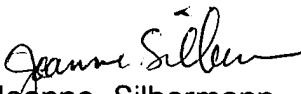
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joanne Silbermann whose telephone number is 571-272-6653. The examiner can normally be reached on M-F 5:30 - 2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on 571-272-6651. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Joanne Silberman
Primary Examiner
Art Unit 3611

js
23 November 2005